



Flathead Conservation District  
133 Interstate Lane, Kalispell, MT 59901  
www.flatheadcd.org 406-752-4220

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### **CALL TO ORDER & ATTENDANCE**

Chair Ronald Buentemeier called the July 9, 2018, 310-Stream Permit meeting to order at 7:00 P.M. in the conference room.

### **Board members present:**

Ronald Buentemeier, Chair; Pete Woll, Vice Chair; Dean Sirucek, Secretary/Treasurer; Lori Curtis, Supervisor; John Ellis, Supervisor; Mark Siderius, Supervisor; Verdell Jackson, Supervisor; being a quorum of the Board.

Also in attendance were: Valerie Kurth and Ginger Kauffman, FCD staff; Leo Rosenthal and Kenny Breidinger, Montana Fish Wildlife & Parks (FWP); Eric Shaw; Roger Noble; Jeff Larsen; Robert & Glenda Brown; Rod & Catherine Juno; Michael Barene, Natural Resources and Conservation Service (NRCS); Dan Brosten; Cardi Chmielewski.

### **MINUTES**

*A spelling error was corrected on page 6.* Lori Curtis motioned “to approve the minutes of the June 25, 2018 business meeting as amended.” Dean Sirucek seconded. Motion carried unanimously.

### **CORRESPONDENCE**

1. Email: Supervisor Summit, August 29-30, Radisson Colonial Hotel, Helena. For agenda information contact LaVerne Ivy, Yellowstone CD, 406-247-4420 [livie@mt.gov](mailto:livie@mt.gov). For registration information contact Chris Evans 406-449-5000, Ext. 112, [lccd@mt.net](mailto:lccd@mt.net)
2. Email: National Association of Conservation Districts (NACD) publications *NACD eResource, Conservation Clips*, <http://www.nacdnet.org>
3. Email: Soil & Water Conservation Districts of Montana (SWCDM) June 27, 2018, issue of *The Montana Conservationist* <http://swcdm.org>
4. Email: Montana Fish Wildlife & Parks AIS newsletter <http://cleandraindry.mt.gov>  
Montana law requires watercraft users to stop every time they encounter an inspection station.
5. Email: Whitefish Planning Board meeting, Thursday, July 19, 2018, 6:00 P.M. in the Whitefish City Council Chambers at **418 E Second Street**. [www.cityofwhitefish.org](http://www.cityofwhitefish.org)
6. Email: 2018 Montana Range Tour hosted by the Richland and Roosevelt Conservation Districts, September 5-6, Sidney, MT. Registration online at [www.eventbrite.com](http://www.eventbrite.com), cost \$75. Contact Tifney Kempton, Roosevelt County Conservation District, 406-787-5232, Ext. 101



7. Email: Applications for a Range Technician position in Lewistown are due 7/13. Send application materials to [hiring@macdnet.org](mailto:hiring@macdnet.org). For more information about this position and other openings available, visit: [www.swcdm.org/hiring](http://www.swcdm.org/hiring)
8. Email: Gallatin CD newsletter *Conservation Journal* <http://www.gallatincd.org>
9. Email: Montana Watershed Coordination Council newsletter *Watershed News* <https://mtwatersheds.org/app>

### **FINANCIAL**

The following bills were reviewed:

1. Unemployment Insurance Division \$153.88
2. Byte Savvy \$45.00
3. Flathead Beacon \$528.00
4. Jean J. Bromley \$384.51
5. Montana State Fund \$272.75
6. Mountain States Leasing – Kalispell \$1545.56
7. Mountain Trader \$80.00

Mark Siderius motioned “to approve the bills as presented.” Verdell Jackson seconded. Motion carried unanimously.

### **PUBLIC COMMENT PERIOD**

No one was present to comment on items not on the agenda.

### **310**

**Averill Family Limited Partnership**, FL2018032C, Viking Creek tributary, complaint: John Ellis stated the complaint is regarding two culverts and a pond that are backing up water on an adjacent property. Ellis motioned “to send the standard complaint letter.” Dean Sirucek seconded. Motion carried unanimously.

**Bell**, FL2017017, Unnamed, permit extension request: Mark Siderius stated the office received a request for a one-year permit extension. Mark Siderius motioned “to approve a one-year permit extension.” John Ellis seconded. Motion carried unanimously.

**Boyd**, FL2017053C & **Pfeifer Trust**, FL2017057C, Nine Mile Creek, complaints: Ronald Buentemeier explained the complainant, Brian Morchen, attended the June business meeting and did not agree with the board decision regarding the Boyd and Pfeifer Trust complaints. Valerie Kurth contacted Caitlin Overland at the Flathead County Attorney’s office. Caitlin initially suggested the district could send a letter to Mr. Morchen stating we followed our complaint process, wherein an inspection was performed and a determination was made that they were not a violations as defined by district rules. After Caitlin reviewed the files, she sent a follow-up email stating she believes that the June 18<sup>th</sup> letters stating a finding of no violation is the final step that needs to be taken regarding these complaints. If the board receives a renewed complaint with additional information or evidence, it may re-open the matter for investigation. Valerie noted if the district does decide to send a letter, it



can first be sent to Caitlin for review. Ronald Buentemeier motioned “to send a letter to Mr. Morchen stating that the complaints are not violations and the complaints are closed.” Verdell Jackson seconded. Motion was not voted on due to the following discussion. The board discussed the content of the letter, including three main points: the district reviewed the complaints and affirmed that they are not violations, the district will stand by its decision, and the county attorney has reviewed this matter and concurs.

John Ellis motioned “to send a letter to the complainant affirming our prior decisions, and declining to re-open the complaints.” Verdell Jackson seconded. Motion carried unanimously. The letter will be sent to the county attorney and Ronald Buentemeier before sending to the complainant.

**Brosten**, FL2018015, Flathead River, stabilize & reinforce dike: An onsite inspection was set for Tuesday, July 17, 8:30 A.M. at the site.

**Brosten**, FL2018035E, Flathead River, notice of emergency: An onsite inspection was set for Tuesday, July 17, 8:30 A.M. at the site.

**Brown**, FL2018024, Flathead River, bank stabilization: Ronald Buentemeier explained the landowners wants to riprap approximately 300’ in front of their home. They will also place pre-rip rap/buried revetment away from the river to protect their home. He noted there are properties above and below the Brown property that have rip rap. In the late 1970’s soft fixes were used on two of the sites, however, since then, the river has deposited enough fill to move the flow to the west side. Beavers have also removed cottonwood trees leaving only stumps. Kenney Breidinger agreed the area downstream is a “big line of riprap” extending to the Brown property, and stated the rip rap needs to be tied into the others so it does not wash out. Ronald stated Valerie Kurth contacted other districts and learned that Yellowstone and Bitterroot CDs have permitted the buried revetment when it falls under 310 jurisdiction. Bitterroot CD noted that often the CD does not have jurisdiction until the river erodes the area of the revetment; therefore, it is important to ensure the revetment meets the same standards as the bank rip rap so rocks are not falling into the river when it does eventually erode. Jeff Larsen stated that is what they will do. Ronald noted the landowners have a boat launch area which they want to continue to use, that is why it is not quite 300’. Army Corps of Engineers 404 permitting was briefly discussed. Ronald Buentemeier motioned “to approve the application and design as submitted.” Lori Curtis seconded. Motion carried unanimously.

**Davis**, FL2018029C, East Spring Creek, complaint: Dean Sirucek motioned “to send the standard complaint letter.” Pete Woll seconded. Motion carried unanimously.

**Hammett**, FL2018028, Evers Creek, culverts: An onsite inspection was set for Tuesday, July 17, 11:00 A.M. Eric Shaw and Verdell Jackson will meet Kenny Breidinger at the FWP office.

**Jacobson**, FL2018023C, Whale Creek, complaint: Ronald Buentemeier stated an onsite inspection was held on June 22<sup>nd</sup>. Whale Creek has moved north and taken out some trees on Jacobson’s and adjacent properties. Complaint photos showed a pallet and cut wood on the Jacobson property. Mr. Jacobson was using the pallet to place trees on and haul them



away per permit #FL2015073. The stream eroded approximately 8 feet of the bank, as well as the pallet. Kenny Breidinger noted a tree, which was upstream, was uprooted by the erosion and is now pushing water into the bank. The stream also undercut where the fence had been, leaving approximately 4-5 feet hanging out over the stream. The river is still making adjustments and the area is erosive. Ronald and Kenny both agreed that this is not a violation. Ronald Buentemeier motioned "to send a letter to Jacobson stating this is not a violation." Lori Curtis seconded. Motion carried unanimously.

**Juno Family Trust/Harring**, FL2018034C, Walker Creek, complaint: Ronald Buentemeier motioned to "send the standard complaint letter." Dean Sirucek seconded. Motion carried unanimously.

Mr. Juno explained that he and his wife (also present) are the landowners and had filed the complaint against Harring. They were on vacation when Harring used his excavator to tear up parts of their property, including an area adjacent to the creek. They know they are responsible for any work on their property and will have to apply for all required permits. They have already received an estimate for repairing the damage. Mark Siderius stated the district had a similar complaint on another stream. The letter was sent to both parties, thus giving the landowners a paper trail for any potential civil action. Ronald Buentemeier noted since we have received a complaint, we have to follow procedure and first send the standard complaint letter. The letter will be sent to both Juno and Harring.

**Launching Eagle LLC**, FL2018031, Swan River, enclose boat slip canopies: An onsite inspection was set for Tuesday, July 17, 11:00 A.M. at the site.

**Motley**, FL2018022, Mill Creek, culvert: Pete Woll stated the water is still too high for an onsite inspection. Pete Woll motioned "to table the application for one month waiting for the water to recede." Dean Sirucek seconded. Motion carried unanimously.

**Peura**, FL2017054C, Whale Creek, complaint: Ronald Buentemeier explained this property is just upstream from Jacobson. Tree thinning work for solar panels and FireWise work near the stream was completed under permit #FL2016006. A fence is now along the property and the stream is eroding the bank toward the fence. The high water washed out multiple trees and shrubs. None of the other work Peura had done was outside of the scope of his permit. Ronald and Kenny agreed this is not a violation. Ronald Buentemeier motioned "this is not a violation." Dean Sirucek seconded. Motion carried unanimously.

**Pfeifer Trust**, FL2018033, Nine Mile Creek, enlarge deck: An onsite inspection was set for Friday, July 13, 9:00 A.M. at the site.

**Rehbein**, FL2018027, Unnamed, culverts: An onsite inspection was set for Friday, August 10, 9:15 A.M. at the site.

**Smith**, FL2017062, Flathead River, driveway: Mark Siderius stated no response has been received from the landowner. Mark Siderius motioned "to table the application." Verdell Jackson seconded. Motion carried unanimously.



**Staloway**, FL2016050, Bear Creek, litigation: Valerie Kurth reported the judge upheld the Flathead CD decision and noted that Staloway can appeal to the Supreme Court. This is still an active permit.

**Westwood Park LLC**, FL2018030C, Bowser Spring Creek, complaint: Verdell Jackson motioned “to send the standard complaint letter.” Mark Siderius seconded. Motion carried unanimously.

**Wilson**, FL2018026, Spruce Creek, culvert: Ronald Buentemeier stated the applicant will put in a 36-inch culvert. He and Kenny Breidinger asked for drain dips on both sides of the culvert as it is on a steep slope. Ronald Buentemeier motioned “to approve the application with modifications.” Verdell Jackson seconded. Motion carried unanimously.

### **NEW BUSINESS**

**Cost-Share Program:** Valerie Kurth reported Mr. Chmielewski has 20 acres of mainly forested land near Lakeside. The neighbor harvested trees but did very little weed control follow-up. Mr. Chmielewski now has knapweed and thistle. Weed control would be done on approximately 5 acres. Weed control rates are per acre and based on NRCS Environmental Qualities Incentives Program (EQIP) rates and not the cost of the chemicals. The other problem is rodents. Mark Siderius motioned “to approve the cost-share for Chmielewski in the amount of \$383.05.” Lori Curtis seconded. Motion carried unanimously.

**Watershed Symposium Grant Agreement #23G-18-3598:** Valerie Kurth explained the Department of Natural Resources and Conservation (DNRC) had sent the agreement the day of the June business meeting. DNRC needed the agreement signed before the end of the fiscal year, so a phone poll was done. Dean Sirucek motioned “to approve Watershed Symposium Grant Agreement #23G-18-3598.” Lori Curtis seconded. Motion carried unanimously.

**Letter of Support for Septic Leachate Study:** Valerie Kurth reported she received a request from Whitefish Lake Institute (WLI) to submit a letter of support to the Water Policy Interim Committee (WPIC) in support of the Septic Leachate study bill before the July 16<sup>th</sup> WPIC meeting.

Ronald Buentemeier asked if data from a septic study for Flathead and Lake Counties, which was done a number of years ago, was going to be used. Lori Curtis explained all data available, including historical data, was used for the WLI septic leachate study. The problem with the whole issue is that even though work has been done since the 1970’s to document the problem, very little action has been taken because of social barriers. For example, preliminary engineering reports were done for 2 neighborhoods around Whitefish Lake, and almost \$3 million in funding was made available so people would have to spend very little of their own money, yet they still refused to move forward. So now they are trying to go about it legislatively and make it an owner’s total responsibility to deal with their aging septic systems. The Department of Natural Resources and Conservation (DNRC) recommended going to WPIC because they can do a study bill that would help decide if there is a reason to force the issue. Dean Sirucek stated this was also discussed at the



Flathead Basin Commission (FBC) meeting a few weeks ago, and FBC supported going forward with the recommendation but to also include Echo Lake. Lori noted the study would include Flathead, Echo and Whitefish Lakes. The hope is that a recommendation for future legislation results from this effort. There have been prior legislative proposals that did not make it; however, they were not done with any serious backing. Dean Sirucek motioned “to approve the letter of support for the Septic Leachate study.” Mark Siderius seconded. Motion carried unanimously.

#### **MATTERS OF THE BOARD/STAFF**

- Payroll
- Valerie Kurth introduced Michael Barene, NRCS engineer intern. She explained that Michael has been working mostly with NRCS engineer, Roger Marsonette. He has also participated in Flathead CD events such as the Forestry Expo Riparian site demonstration recently held with students from China.
- 2018/2019 Budget Meeting, July 18, 9:00 A.M.

The next business meeting is scheduled for Monday, July 23, 2018, 7:00 P.M. in the conference room of the USDA building at 133 Interstate Lane, Kalispell.

Adjournment: Lori Curtis motioned “to adjourn.” Verdell Jackson seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 8:20 P.M.

Submitted By:

Ginger Kauffman  
Administrator

Valerie Kurth, Ph. D.  
Resource Conservationist

Minutes approved by FCD Board motion made on:

<u>7/23/2018</u>	<u>Ronald Buentemeier</u>	<u>Chair</u>
(Date)	(Signature)	(Title - Chair etc.)

